

and counts for one hundred and fifty years have been taken up unchanged in the least.

cannot be affected by turning up to these necessities and expediences, unless the wording of it be such that the same intention appears on the face of it, and unless this intention is so clearly expressed as to allow of its being legally acted upon. It is patent to every one that acts have often been passed by legislatures upon an evasive object in view, and that courts have afterwards put a legal construction upon their meaning totally different, or at least widely varying from the intention which the framers intended to express; and the consequence of such a construction is, that it is not what the view of the legislature was, but what the view of the court is. The object of this law were (for that is pretty evident) whether the intention is so clearly expressed as that the benches will be justified in acting upon it—without considering any other thing, but with the conviction that a mandamus will not "go against them for so doing.

There is one point in the existing Act, which you will find, nor any other previous one, that I have taken notice of. This is contained in the consideration—mark the consideration—of every application a *judicial* proceeding. Upon the legal reading

But what, if any, is my opinion, turns the whole question, the question of the magistrate's power. If the consideration of every appeal by a judge is a judicial proceeding, how can the judge, acting in such, bring to bear upon the consideration facts that he does not know? Knowledge extra-judicially? Jurists do not give verdicts extra-judicially. They do with the facts of a case made before they come into Court, and where is the difference? You may say, then, is the use of the certificate signed by five justices a judicial proceeding? I answer none. A mere form—a requirement rendered unproductive by the requirements of this clause. For if the Justices cannot take upon them the consideration of applications character from their own knowledge, much less can they be required to decide judicially upon the respectability of five house-holders. If the argument is good in the one case, it

You give the statement made by the Hon.able the Attorney-General at the Bathurst assizes, to which the certificate is meant to be nothing more than a help to the magistrates in that strict examination of the facts of the case. The law of Sir Thomas Brisbane declares to be necessary, and I think to some remarks made by his Honor the Chief Justice, from which you infer that he attributed blame to the defendant for abusing the discretion vested in them of refusing to grant a writ of habeas corpus. But neither the Attorney-General's statement nor the Chief Justice's remarks were legal opinions. Mr. Plunkett knew what the intention of the Legislature in the matter was, and he was not to be misled by the opinion of the Attorney-General from his knowledge of this intention, though he was not to be misled by the opinion given after consideration of the point in law. As the Judge's remark, and in that remark the word "system"

It would be as far from my wish, as ridiculous in my position, to state any opinion of mine in opposition to that of either one of these gentlemen, who, in their capacity of members of the Council, are respected and admired, and I have only ventured to refer to the paragraph to which I allude, in order to express a supposition which I think is not improvable.

I have intended to show them, briefly, the ground upon which I found my opinion, as contained in the 18th section of the Act, and the reasons which I advanced in support of it, and the arguments based upon the intention of the law passed by Sir Thomas Brisbane, do not support your view.

It is in that by the 13th Vic. No. 29 alone, and by no other public laws enumerated, is the consideration of applications for publicans' licenses made a judicial proceeding.

I know that my impression on this matter is shared by others, and the converse is palpable to loyal minds, the cause of morality will not suffer by having the intention made so plain as that "all who run may read."

I remain, Sir,
Your obedient servant,
Kiama, 3rd April. N. S.

BALMAIN FERRY.

To the Editor of the Sydney Morning Herald.

SIR,—Your kindness in inserting the letter of "Philanthropos" in to-day's issue, on the subject of the Balmain steamers, has called forth the thanks of the residents at Balmain, and those in Sydney having occasion frequently to cross over.

The objection of "Philanthropos" as to the

overloading these steamers, and want of punctuality in their starting, are too true, and too well known to those having anything to do with Balaam; but, for the sake of the passengers, and the great carelessness in the steering, which is usually committed by mere boys, who are generally whistling and gazing about, and who pay no attention to the course of the vessel, the number of which there have been narrow escapes of being run down by the larger vessels, which are always sailing along the harbour.

The owners of these steamers, Sir, have trided with human life sufficiently long for the interference of the law, and the Government, and the courts, and the owners would be heavily fined, or have their licences suspended, for carrying more passengers than the law and their license allowed; and who, in this country, could be so careless of human beings?

I agree with Mr. Philpot, that it is not at all

impending danger should be considered at once, lest it be by a sad accident only that the authorities are exposed to their duties, and the public from their present position.

And, Sir, why should so rising a place as Balmain be so despised, as not to have proper and safe communication with Sydney? Where are the capitalists of the colony, the great landlords at Balmain, who are both bound to the fact of the necessity of proper communication, and the increased value it would add to property in Balmain? and where is any one else who has the spirit of a fly, who will assist the cut-off inhabitant?

In spoliaging for asking space in your columns for these few lines, I also feel that if through your aid in the matter, even one life, some day may be saved, it will be a source of gratification to you.

A REMAIN, SIR, your obedient servant,
 A SUBSCRIBER AND WITNESS AT BALMAIN.
 5th April, 1854.

"RUBBISH MAY BE SHOT HERE."
To the Editor of the Sydney Morning Herald.

SIR,—In my peregrinations about the environs of Sydney, where building land is in request at exorbitant prices, it has surprised me to observe the frequency under the above invitation. The localities thus pointed out may be very appropriate scenes of action for the extant duellists, or would any one find fault with such an application of the brief sentence; but in not a few cases the persons who solicit the deposit of "rubbish" on their land deserve to have the epithet applied to them.

In every large town of England, where it is deemed

able to economise space (as is also the case in Sydney), underground kitchens, cellars, and other offices are considered necessary appendages, and not unfrequently require more room than the main building, and its neighbourhood, where small houses command a high price, these conveniences are unwisely disregarded: in places where a natural hollow exists, persons are often obliged to dig a shaft 10 ft. up, instead of the being rendered available for underground offices of convenient offices, and the mass must be dug through a foundation can be laid. Moreover, the accumulation of filth to be built over (with the occasional addition of a few bricks) is a mass of moulder and exhaling malarial throughout the super structure for the duration perhaps of half a century.

It may be objected that the difficulty of drainage necessitates the construction of subterranean offices, but, though this

able in some cases, it is not so in all. To quote an instance where the feasibility of drainage is obvious, the ground sloping down to a culvert that drains the space of ground on the south side of St. Mary's Cemetery in New York City, the ground is so low that it is deposited an assortment of rubbish that would require some way to make the fortune of a London collector of such refuse. In his novel, *House of the Dead*, the author Charles Dickens mentions in his description of the "House of the Dead" an "old miserly fellow" who had "sold an old end-of-an-awl for fifty thousand pounds or a huge quantity of powder with his daughter, and the 'rubbish,' refused by the swain, was sold for seventy thousand pounds to a dealer in old iron."

By this we may Let it be recollected that Sydney Smith, the great English divine, once said, "I thought not and must not be much longer without a general system of drainage; and already are the Commissioners judiciously enforcing the provisions of the Public Health Act, 1848, which requires that the

improvement. I am, Sir, &c.,
JOHN BULL.
Sydney, April 4.

To the Editor of the Sydney Morning Herald.

Sir,—Can you inform me why the City Commissioners intend removing the heavy wheels at present stands at the Market Wharf? It has been there a most necessary light for the last fifteen months, and over a very dangerous drain.

8th April, 1864.

AN INHABITANT.

[v.au/nla.news-page150](http://www.au/nla.news-page150)

Library of Australia <http://nla.gov.au/nla.news-page1505309>

The "Hannah," Ten-ton Lighter
Ship's large Qig

BOWDEN and TRICKELKELD will sell by
 auction, at Kellick's Wharf, foot of Margaret-
 street, **THIS DAY, Friday, the 7th instant, at 10 o'clock, pre-
 cially,**
 one Hannah, ten-ton lighter, stanch and tight, with sails, com-
 plete
 one ship's cog, large size, built of English oak, copper-fastened,
 with sails and oars, complete
 one wharman's boat, with oars
 one light pleasure skiff
 The above are now at the Market Wharf Ferry, Fyrmont, where

may be seen, and will be brought over to Kellick's Wharf
 morning of sale.
 Terms, cash.

Extensive and Unreserved Sale of
 Ironmongery Holloware Cutlery and
 Brushware, &c.

BOWEN and THRELKELD will
 sell by auction, at the City Mart, 474, George-
 street, THIS DAY, Friday, the 7th instant, at 11 o'clock,
 the above, together with a large and general assortment of ironmongery, holloware, cutlery,
 brushware, &c., comprising

- Gravel shovels
- Bent shovels
- Pickaxes
- Leamington registered stoves
- Chamber grates
- Jack planes
- Joining ditto
- Smoothing ditto
- Tinned saucepans and covers
- Oval kettles
- Pots and covers
- Few glass pots
- Frying pans, oval and round, tinned
- Bread baskets, japanned

Trays ditto
Dish covers ditto
Dead boxes ditto
Sugar canisters ditto
Cake pans ditto
Dish covers, black tin
Fire-proof boxes, patent locks
Metal tea pots
Ditto coffee filters
Improved coffee filters
Colanders, hand-bowls
Saucepans, iron (w/le) meat covers
Weighing machines
Papier mâché trays

Dinner and dessert knives and forks
 Butcher's knives and meat saws
 Saws, bolts, &c.
 And a great variety of other hardware, &c.
 BRUSHWARE, ex Queen of the East.
 Ground brushes
 Bash tools
 Quill ditto
 Nailed stocks
 Shoe brushes
 Scrubbing ditto
 Ditto fibre ditto
 Sove ditto
 Bannister ditto
 Ditto

Base stocks ditto
Distemper ditto
Dusters
Hearth brushes
Brooms, carpet brooms
Mop heads and handles
Stock brushes
Paint brushes
Sash ditto

SUNDRIES,
Contracting weighing machines
Iron folding portable bedsteads
Palmet kitchens range
Cast iron bottle trough

Geometrical iron staircase, 10 feet 6 inches high, with mahogany rail, complete
One strong iron fire-proof room, complete, 10 feet long and 4 feet wide
Iron chimney-pieces
Arnold stores, &c. &c.
Terms at sale.

Mucateis
Figs
Colonial Cheeses.

BOWDEN and THURKELD will sell by auction, at the City Mart, 474, George-street,

SATURDAY next, the 8th instant, at 11 o'clock,
70 boxes fresh muscadine raisins
2 cases figs, in drums
130 Bathurst cherries
8 cases $\frac{1}{2}$ tins sardines.
And a variety of groceries.
Terms at sale.

American Barrel Flour.

BOWDEN and THREE WELD have re-
ceived instructions to sell by auction, at the
City Mart, 47, George-street, on **SATURDAY** next, the 8th
instant, at 11 o'clock,
1730 barrels American flour, viz.—

150 barrels bakers' best
80 ditto Brandywine
1500 ditto various brands
Terms at sale.

Curry Powder.—To Grocers and others.
JOHN G. COHEN will sell by auction, at
his Rooms, 490, George-street, **THIS DAY,**
April 7, 1854, at 11 o'clock precisely,
30 cases East India curry powder.
Terms at sale.

Tins Herings
Nardinot.

JOHN G. COHEN will sell by auction,
at his Rooms, 490, George-street, THIS DAY,
April, at 11 o'clock precisely,
26 cases herrings, in tins
16 ditto sardines, $\frac{1}{2}$ tins.
Terms at sale.

Half-barrels Gunpowder.—On account of whom it may con-
cern—Ex Castle Eden, —, master, from London.—Damaged
by sea water.

JOHN G. COHEN will sell by auction, at
his Rooms, 490, George-street, THIS DAY,
April, 1854, at 11 o'clock precisely,

75 48 lbs. casks of Curtis and Harvey's double F, FFF, gun-
powder, in 1 lb. and 1 lb. blue casks-still, all more or less damaged
sea water.

Terms at sale.

Orders to view the powder, which is on board the Camoo at
Port Island, may be obtained on application at the office of
Messrs. MACNAB, BROTHERS, and CO.

490, George-street, April 1, 1854. JOHN G. COHEN.

North Willis Cheese.

JOHN G. COHEN will sell by auction, at
his Rooms, 490, George-street, THIS DAY,
April 7th. 1854, at 11 o'clock precisely,

24 cases North Wille cheese.
Terms at sale.

Jack screws,
Engine wringings.

JOHN G. COHEN will sell by auction, at
his Rooms, 490, George-street, **THIS DAY,**
April 6th, 1854, at 11 o'clock precisely,
1 Jack screw
1 bundle engine wringings,
Terms at sale.

an account of whom it may concern, ex General Hale, Major
Master, from London, damaged by sea water.

JOHN G. COHEN will sell by auction, at his Rooms, 490, George-street, THIS DAY, April 7, 1854, at 11 o'clock precisely,
over 318—29 cases brandy, much damaged
over 318—33 ditto old rum, 1 dozen each, ditto
" 18 ditto, 8 ditto, ditto
All more or less damaged by sea water.
Terms, cash.

Bagatine Boards
Racing Boards
Dressing Cases.
To Upholsterers, Toy Dealers, and others.

JOHN G. COHEN will sell by auction, at

his Room, 490, George-street, THIS DAY.
 April 7th, 1864, at 11 o'clock precisely,
 1 bagatelle board, for 4 games
 12 best racing boards, complete
 Common ditto ditto
 Leather dressing cases, fitted up, in great variety
 Picnic cases
 Dice cups and dice
 Hair and cloth brushes
 Leather dressing cases
 Dice cups and dice.

Terms at sale.
Paper Hangings.

CHATTO and HUGHES have received instructions to sell by auction, at their Sale Rooms, 448, George-street, **THIS DAY, the 7th instant, at eleven o'clock.**

1000 pieces paper hangings, of variously assorted patterns.

Terms at sale.

Framed Paintings.

CHATTO and HUGHES have received instructions to sell by auction, at their Sale Rooms, 448, George-street, **THIS DAY, the 7th instant, at 11 o'clock.**

A selection of framed paintings—landscapes, views in Scotland,

Terms at sale.

CHATTO and HUGHES have received instructions to sell by auction, at their Sale Rooms, 448, George-street, THIS DAY, 7th instant, at 11 o'clock

A selection of first-rate classical and other books, comprising

- Bohn's Classical Library, 19 vols.
- Encyclopædia Metropolitana, 5 vols.
- Translation of Terence
- Keightley's Mythology
- Patrick and Louth's Commentary on the Bible

Various Translations, 10 vols.
Latin Reader, Greek Grammars
Arnold's Classical School Books
Guide to Science, Greek Testament
Chambers' Books, Hook's Church Dictionary
Jurnal, Horae, & Epigrammata
Exercises in Caesar and Xenophon
Sandford's Greek Extracts, Greek Lambics
National School Books, &c., &c., &c.
Terms at sale.

To Stationers and others.
Account Books.

PHATTO and HUGHES have received in-

Instructions to sell by auction, at their Sale Rooms,
 24, George-street, THIN DAY, the 7th instant, at 11 o'clock,
 4, 5, and 6 quire ledgers, bound in red grained baal
 " " journals, bound to match
 " " cash books, ditto ditto
 Account books, ruled double money, in strong bindings, 2, 3, 4,
 and 6 quires.

Terms at sale.

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Building Sites.
Instructions
for Rooms, Pitt-
Victoria-street,
Victoria-street, and
a depth between
joins the residence
to Victoria-street,
a depth as Lot 1.
residence.
Last wife, giving a
favourite locality
always connected
wealthful, and the
investing capital

... three miles from
Rankin, Reg.
instructions to
Air Rooms, Pitt-
11 o'clock,
on the rich allu-
vial, on the north
half-section, laid out
20 acres, together
which is laid out in
several of the farms
Salmon Creek, and
how long known
established fact, that
consequently adjoining
owned by any duty
is the very centre
nation of the pro-
cess and Tombarrow
entire the distance,
magnificent pro-

the property of the residence of Daniel," the dairy comprising the milk route to the river, which property from Mount Pleasant Creek, which sale, is also fresh

A little back from the magnificent view, the undulating Mount Ransin in rich alluvial soil, been under cultivation there are many residences or farm

states that the courts lodge of contemplation to the

of the proprietors, acres, were disclosed

various of landing
 farm of first rate
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 have been duly
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WINDHAMMAN
 the Colony.
 sive instruc-
 public auction,
 at 12 o'clock, on
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 itation given since
 River Hunter of
 five outbuildings,
 acre of vineyard,
 CULTIVATION
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...s, they meet the views
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adjoining No. 1 on
...age, stockyards,
...age of 25 chains to
...th extensive river
...nired by a sewer-
...mpensation road.
...he creek, bounded
...ected a large, cus-
...dairy stockyards,
...to possession of a
...running through
...nning through it,
...is a
...vation.

of cultivation.
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the Lushaiwar pro-
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at by an occupation
and on the east by

the west by the
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age to the River

of a quarter of a
renning through
ing establishment,
ine-down upon an
-house, large and
room, nine pots,
3 cisterns, 150
nstant oil, 150
it cottages, with

including MAN-
house contains, on
m, 27 feet by 16

feet 6 by 15 feet 6;
rains hail, butler's
floor are 3 large
cove, with cellars
gallons of wine.
house, barns and
divided into eight
carriages, hayloft
buildings, man's
the choicest vines,
mill-houses, valuable
cash on the full of
property, payable
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it will be at the op
ny part, before the
Northumberland
Mr. J. NOTT, New-
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ers, and the newly-
ome it offers a sure

the others a certain advantage is given to one of the parties, equalled only by the fact that it is unrivalled in its own class, with many other desirable properties. It is an eminently desirable property, the more extensive use of which requires only the aid of the College of Surgeons, the light, airy, and comfortable of the air, and the sound.

been favoured
proprietor, Mr.
on THURSDAY,
Queensway, the
ctly quiet

offer the above lot of
archers that they
intends en-
the Auctioneer
superior lot of horses
really choice lot, and
rare opportunity to
at the time of sale.

...as an quiet and well-

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